

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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David Richard Carlson,

Plaintiff,

v.

14-CV-746 (JNE/JJG)  
ORDER

Warden Becky Dooly, Attorney Susan  
Ginsberg, Fred Fredman, Duluth Public  
Defenders Office, City of Duluth City Attorney  
Gary Bjorklund, and City of Duluth Police at  
Hole,

Defendants.

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This matter is before the Court on Plaintiff David Richard Carlson's Application to Proceed In Forma Pauperis ("IFP") on Appeal. ECF No. 18. Though Carlson was incarcerated in a Minnesota state prison when he commenced this action, he had been released and was residing in a work release center at the time he filed his Notice of Appeal. *See* Notice of Change of Address, ECF No. 10. The docket now lists Carlson's address as an apartment in Duluth, Minnesota.

The IFP provisions of the Prison Litigation Reform Act therefore no longer apply to Carlson. Still, to qualify for IFP status on appeal, Carlson must demonstrate an inability to pay the fees and costs of appeal. 28 U.S.C. § 1915; Fed. R. App. P. 24(a). To that end, Carlson filed an affidavit on the standardized IFP application form. There, he states that he has no income of any kind or amount, no assets, no employment history, and no expenses. It is evident that Carlson's affidavit is inaccurate, as it conflicts with information he previously filed here on his application to proceed IFP in the district court, which was found to be inadequate because it did not include his prison trust fund account statement. *See* ECF Nos. 2, 6.

Nevertheless, Carlson has noted elsewhere in the record that, before being incarcerated, he was receiving Social Security disability payments, and that he currently has approximately \$200 available to him. In the circumstances of this case, the information Carlson submitted sufficiently demonstrates that he is financially eligible for IFP status on appeal. And although the Court remains satisfied that Carlson's claims were properly addressed, the Court declines to certify that his appeal is not taken in good faith. Accordingly, the Court grants Carlson's motion to proceed IFP on appeal.

Based on the files, records, and proceedings herein, and for the reasons discussed above,  
IT IS ORDERED THAT:

1. Plaintiff's Application to Proceed In Forma Pauperis on Appeal [ECF No. 18] is  
GRANTED.

Dated: August 5, 2014

s/Joan N. Ericksen  
JOAN N. ERICKSEN  
United States District Judge